



Application No. 10/080,437  
Response to Office Action dated August 22, 2003

## REMARKS

### Summary of the Office Action

Claims 1-9, 11-19, 21-29 and 31-39 stand rejected.

Claims 10, 20, 30, and 40 are objected to as containing allowable subject matter, but depending on a rejected base claim.

### Summary of the Office Action

Claims 1-10 have been amended.

Claims 11-40 are cancelled.

Claims 41-58 are new.

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### Remarks

The Office Action of August 22 cited *Kim* (U.S. Patent No. 6,239,968) as the primary reference for rejecting the pending claims. Applicant respectfully requests reconsideration of the use of *Kim* because this reference is not prior art. The filing date of *Kim* is November 30, 1999, and the current application has the priority date of February 4, 1999.

While *Kim* claims priority to a provisional application, the Examiner is not relying on the provisional application as a reference. If the Examiner is relying on the earliest priority date for *Kim*, then the Examiner should rely on the provisional application in order to make any rejection of the claims of this application, not on the disclosure of the subsequently issued patent.



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Applicant requests reconsideration of claims 1-10, as well as consideration of the new claims 41-60, in view of the arguments above. Applicant does not believe that any of the amendments or new claims contain new matter. A Notice of Allowance is respectfully requested.

### **CONCLUSION**

Applicants respectfully submit that all pending claims are patentable over the art of record. Accordingly, a Notice of Allowance is requested by Applicants. Applicants urge the Examiner to telephone Applicants' attorney at (408) 551-6632 if any issues remain that preclude allowance of the application. The Office is given permission to charge any unpaid fees to Applicants' deposit account (50-1914).

Respectfully submitted,

SHEMWELL GREGORY & COURTNEY LLP

Dated: 11/24/03

  
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### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450

BY: 

Van Mahamedi